IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.892 of 1987

Date of Decision: 9.03.2007

Smt.Ishwari Devi ...Appellant

Vs.

Mehar Singh & Ors. ..Respondents

CORAM: HON'BLE MR.JUSTICE VINOD K.SHARMA

Present: Mr.G.S.Bhatia, Advocate,
for the appellant.

Mr.Munishwar Puri, Advocate,
for respondent No.4.

Vinod K.Sharma,J (Oral)

This is an appeal filed by Ishwari Devi mother of the deceased Jagdish Kumar Kalra who died in a motor vehicular accident on 28.11.1985. The deceased had boarded Bus No.RSG-3076 of Rajasthan Roadways Transport Corporation from Malout to go to Sri Ganganagar. The said bus was being driven by Nasib Singh respondent driver. When the bus reached near the tri-junction, in the area of Malout Mandi, Bus No.PJG-7066 of Pespu Roadways Transport Corporation (for short PRTC), Bathinda Depot, driven by Mehar Singh respondent (now deceased) came

from the opposite side. Both the buses were being driven at a very high speed and in a negligent manner. There was head on collision which resulted in death of Jagdish Kumar Kalra at the spot. The deceased was said to be of 27 years of age and it was claimed that he was dealing in general merchant goods and was earning about Rs.1500/- per month.

Nasib Singh, driver of the Rajasthan Roadways bus attributed the negligence to Bus No. PJG-7066 for the rash and negligent driving, whereas PRTC on the other hand denied the factum of accident and further pleaded that in case there was any accident it was due to negligence of the driver of Rajasthan Roadways bus. The claim petition was filed by the widow and minor daughter in which the appellant was transposed as claimant No.3 who was initially impleaded as respondent No.5. Though widow and minor child have claimed compensation to the tune of Rs.1.5 lacs the appellant herein claimed a sum of Rs.5 lacs as compensation.

On the pleadings of the parties, the following issues were framed by the learned Trial Court:

1. Whether death of Jagdish Kumar Kalra had resulted from the rash or negligent driving of Bus No.RSG 3076 by respondent No.2 and of bus No.PJG 7066 by Mehar Singh deceased, driver? OPA

2. To what amount the petitioners are entitled to recover as compensation and from whom? OPA?

5. Relief.

On issue No.1 it was held that Jagdish Kumar Kalra had died as a result of rash and negligent driving of Bus No. No.RSG 3076 as well

as bus No. No.PJG 7066. However, on issue No.2 compensation to the tune of Rs.80,000/- was awarded. Out of the said amount the appellant herein was held entitled to a sum of Rs.20,000/-, whereas the balance amount was directed to be paid to the widow and minor. Interest at the rate of 12% per annum was also granted on the awarded amount from the date of application till recovery. It was ordered that 50% of the amount shall be paid by the PRTC, respondent No.3 and balance by Nasib Singh and Rajasthan Roadways and the liability was held to be joint and several.

Mr. G.S.Bhatia, learned counsel appearing for the appellant has challenged the finding of the learned Tribunal on issue No.2. Learned counsel for the appellant made a reference to the statement made by Sunita Rani, AW 2 to contend that the deceased was earning a sum of Rs.1500/- per month out of which he used to contribute about Rs.1000/-. He further made reference to the statement made by AW 4 to contend that there is evidence to show that the deceased was earning Rs.1600/- per month. Learned Tribunal without assigning any reason assessed the income of the deceased to be Rs.600/- per month. Though in the statement made by AW 2 it was stated that the deceased was earning a sum of Rs.1500/- per month, however, the basis of the said income was that he was working at a merchandise shop. However, this part of the statement is contrary to the statement made by the AW 4 where it was stated that he did not own any shop and he merely used to supply goods to other shop-keepers.

Be that as it may, it can safely be presumed that the deceased was earning at least a sum of Rs.1000/- per month which AW 2 said was being contributed towards household expenses. Out of this amount, a sum of

Rs.300/- can be deducted as his personal expenses and thus, the dependency would come to Rs.700/- per month. Accordingly, the compensation payable comes to Rs.1,34,400 (700 x 12 x 16). In addition thereto, the claimants are held entitled to funeral expenses of Rs.2000/- and consortium of Rs.5000/-. Thus, the total compensation comes to Rs.1,41,400/-. This can be rounded up to Rs.1,42,000/-. Accordingly, the finding on issue No.2 qua the appellant is modified and it is held that instead of Rs.20,000/- the appellant is entitled to a sum of Rs.42,000/-. In addition thereto, she will be entitled to interest at the rate of 9% on the enhanced amount from the date of application till realisation. The liability shall be 50 per cent on PRTC, respondent No.3 and another 50 per cent shall be the liability of Nasib Singh and Rajasthan Roadways.

The appeal is disposed of in the above terms.

(Vinod K.Sharma)
Judge

9.03.2006
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